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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,890	08/30/2000	Ryuichi Sakai	43890-433	2172
7590	09/27/2004		EXAMINER	
McDermott Will & Emery 600 13th Street N W Washington, DC 20005-3096			VENT, JAMIE J	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/651,890	SAKAI, RYUICHI	
	Examiner	Art Unit	
	Jamie Vent	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08/30/2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 8-13 is/are allowed.
- 6) Claim(s) 1 and 14 is/are rejected.
- 7) Claim(s) 2-7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/04/04, 12/8/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being unpatentable by Kahn et al (US 6,525,775).

[claims 1 &14]

In regard to Claims 1 and 14, Kahn et al, discloses a video recording and reproducing apparatus (Figure 1 shows the system comprising a remote control 94, receiver 90, television monitor 98, and a video recording/reproducing apparatus 113) comprising:

- A tuner for receiving a digital broadcast signal from a transponder and converting data of the digital broadcast signal into a stream of bits carrying data of a group of programs, and outputting the stream of bits (Figure 2 tuner 210 which receives the digital broadcast signal and converts the signal through the multiplexer 101 before processing of the signal);
- A program selector for separating data of a program selected by a user from the stream of bits, and outputting the data of the program as a stream of program bits (Figure 2 transport decoder and microprocessor separates the data of the program by using the stream of bits as disclosed in Column 6 Lines 8-17);
- A decoder for separating elementary streams (ES) which includes at least one of: encoded signals of video data, audio data, and program related data from the

stream of program bits and decoding and elementary streams (Figure 2 transport decoder 102 decodes and separates the streams of data which include video, audio, and program related information as described in Column 6 Lines 18-28);

- An output section for transferring the elementary streams in data of a program provided by said program selector (Figure 2 shows video/audio out); and
- An ES selector for selecting elementary streams in data of a program provided by said program selector (Figure microprocessor 102 also selects elementary streams in data of the program as further described in Column 6 Lines 29-68).

Allowable Subject Matter

[claim 2, 3, 4, 5, 6, & 7]

Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In regard to Claim 2, the prior art of record (Kahn et al US 6,525,775) discloses a user video recording and reproducing apparatus (Figure 1b) which has a transport decoder/microprocessor which acts as program selector and elementary stream selector as seen in Figure 2 and described in Column 6 Lines 8-17; however, the prior art of record fails to teach, suggest, or partly disclose an apparatus in combination of the above apparatus comprising:

“..when the number of the elementary streams is higher than a particular setting, the ES selector selects elementary which satisfy predetermined requirements such that the number of selected elementary streams is no more than the particular setting.”

[claims 8, 9, 10, 11, 12, 13]

Claims 8, 9, 10, 11, 12, and 13 are allowed. The statement of reasons for allowance is indicated in the above listed reasons for allowance for claim 2 which indicates the allowable subject matter:

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

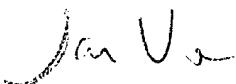
- Sakazaki et al (US 5,648,960).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamie Vent whose telephone number is 703-305-0378. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 703-305-4725. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jamie Vent


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PRIMARY EXAMINER